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4                   UNITED STATES DISTRICT COURT  
5                   WESTERN DISTRICT OF WASHINGTON  
6                   AT SEATTLE

7                   ANIMAL LEGAL DEFENSE FUND,

8                   Plaintiff,

9                   v.

10                  OLYMPIC GAME FARM, INC., *et al.*,

11                  Defendants.

12                  Case No. C18-6025RSL

13                  ORDER RENOTING MOTION FOR  
14                  RECONSIDERATION

15                  This matter comes before the Court on plaintiff's timely motion for  
16                  reconsideration of the case management order issued on October 4, 2023. The order  
17                  identified only four practices/events remaining at issue in this lawsuit. Plaintiff argues  
18                  that its federal Endangered Species Act ("ESA") claim regarding the unlawful  
19                  possession of the Canada lynx, Purrsia, remains in play.

20                  In December 2018, plaintiff filed this lawsuit alleging, *inter alia*, that defendants  
21                  violated the ESA by failing to properly treat Purrsia's leg injuries, Dkt. # 1 at ¶¶ 5, 14,  
22                  and 42, by keeping the Canada lynx in "cramped and deprived conditions," Dkt. # 1 at  
23                  ¶ 8; *see also* ¶¶ 93-95, and by possessing a Canada lynx in violation of state law, Dkt.  
24

# 1 at ¶¶ 115-17.<sup>1</sup> Defendants moved for summary judgment on the “take” aspect of the  
 1 ESA claims related to Purrsia, arguing that the ESA prohibitions against taking do not  
 2 apply to Olympic Game Farm’s captive-born and lawfully acquired Canada lynx and, in  
 3 the alternative, that the animal was appropriately housed and treated. Dkt. # 126 at 19  
 4 and 22. In response, plaintiff argued that defendants’ evidence of Purrsia’s provenance  
 5 was inadmissible and that defendants violated Washington’s animal cruelty laws by  
 6 failing to give appropriate medical care. Dkt. # 192 at 13-14. The Court found that it  
 7 was plaintiff’s burden to show that Purrsia had been born in the wild (a burden which it  
 8 had not met), but because plaintiff might be able to prove that defendants had violated  
 9 Washington’s animal cruelty laws with regards to the treatment of Purrsia’s leg injury,  
 10 that aspect of the ESA claim could proceed. Dkt. # 228 at 12 and 28-30. Defendants  
 11 subsequently showed that the 2016 leg injury had not been adequately disclosed in the  
 12 original 60-day notice letter. The Court therefore found that it lacked jurisdiction over  
 13 that claim. Dkt. # 254 at 3.

14 Through a parallel motion for summary judgment, plaintiff sought summary  
 15 determinations that defendants were violating the ESA with regards to its grizzly bears  
 16 and tigers, Dkt. # 160 at 6, and that defendants’ possession of a Canada lynx in violation  
 17 of the state Endangered Species Act constituted a public nuisance, Dkt. # 160 at 28. On  
 18 reconsideration, plaintiff requested a finding that defendants were violating the state  
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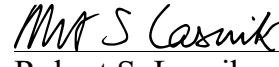
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20 21 22 23 24 25 26 27 28 <sup>1</sup> Plaintiffs also alleged that Olympic Game Farm is a public nuisance because it violates the Washington State  
 28 Endangered Species Act and Washington State Animal Cruelty Laws. Dkt. # 1 at ¶¶ 12 and 149-62. The Washington Supreme Court has determined that the public nuisance claim fails as a matter of law.

1 Endangered Species Act by possessing Purrsia without proper authorization and that the  
2 state law violation constitutes a violation of the federal statute. Dkt. # 230 at 2. The  
3 Court denied this belated request. Dkt. # 253 at 3.

4 Despite the overlapping nature of the cross-motions for summary judgment, it  
5 appears that the Court has not resolved plaintiff's claim that defendants "possess" a  
6 Canada lynx in violation of the Washington Endangered Species Act and, therefore,  
7 have violated the federal ESA. Pursuant to Local Civil Rule 7(h)(3), a motion for  
8 reconsideration cannot be granted without giving the opposing party an opportunity to  
9 respond. The Clerk of Court is therefore directed to renote plaintiff's motion for  
10 reconsideration (Dkt. # 286) on the Court's calendar for Friday, January 5, 2024.  
11 Defendants' opposition, if any, is due the Wednesday before the note date. To the extent  
12 plaintiff argues in its pending motion for summary judgment (Dkt. # 298) that  
13 possession of Purrsia violates the ESA, defendants should make a substantive response.  
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16 Dated this 18th day of December, 2024.  
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20 Robert S. Lasnik  
21 United States District Judge  
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